



STATE OF
COLORADO

Gibson - DNR, Amber <amber.gibson@state.co.us>

November 2024 Lorencito Canyon Mine C-1996-084 Inspection Report

1 message

Gibson - DNR, Amber <amber.gibson@state.co.us>

Thu, Nov 21, 2024 at 2:36 PM

To: jterry@newelkcoal.com, john terry <jterry316314@gmail.com>, Frank Kirby <fkirby0428@gmail.com>

Cc: JimB@newelkcoal.com

Good afternoon,

Attached for your records is a copy of the Division's inspection report for the partial inspection conducted at the Lorencito Canyon Mine on November 6, 2024.

Thank you,

Amber M. Gibson
Environmental Protection Specialist I



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources

P 720.836.0967 | F 303.832.8106 |
amber.gibson@state.co.us

Mailing: DRMS Room 215, 1001 E 62nd Ave, Denver, CO 80216

Physical: 1313 Sherman Street, Room 215, Denver, CO 80203

<https://drms.colorado.gov/>



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COLORADO


Division of Reclamation,
Mining and Safety

Department of Natural Resources

PERMIT INFORMATION

Permit Number: C-1996-084 Mine Name: Lorencito Canyon Mine Operator: New Elk Coal Company, LLC Operator Address: Mr. John Terry 12250 Highway 12 Weston, CO 81091	County: Las Animas Operation Type: Surface Permit Status: Permanent Cessation Ownership: Private
	Operator Representative Present: None
Operator Representative Signature: (Field Issuance Only) 	

INSPECTION INFORMATION

Inspection Start Date: November 6, 2024 Inspection Start Time: 08:40 Inspection End Date: November 6, 2024 Inspection End Time: 09:13	Inspection Type: Coal Partial Inspection Inspection Reason: Normal I&E Program Weather: Snowing
Joint Inspection Agency: None	Joint Inspection Contacts:
Post Inspection Agency: None	Post Inspection Contacts:
Inspector(s): Amber M. Gibson	Inspector's Signature:  Signature Date: 11/21/2024

Inspection Topic Summary

NOTE: Y=Inspected N=Not Inspected R=Comments Noted V=Violation Issued NA=Not Applicable

N - Air Resource Protection	Y - Roads
Y - Availability of Records	Y - Reclamation Success
N - Backfill & Grading	N - Revegetation
N - Excess Spoil and Dev. Waste	N - Subsidence
N - Explosives	Y - Slides and Other Damage
N - Fish & Wildlife	N - Support Facilities On-site
Y - Hydrologic Balance	Y - Signs and Markers
N - Gen. Compliance With Mine Plan	N - Support Facilities Not On-site
N - Other	N - Special Categories Of Mining
Y - Processing Waste	N - Topsoil

COMMENTS

This partial inspection was conducted by Amber Gibson representing the Division of Reclamation, Mining and Safety (Division/DRMS). I conducted the inspection unaccompanied by an Operator representative for the Permittee New Elk Coal Company, LLC (NECC). As of July 18, 2024, the presence of staff onsite and available to represent NECC is unpredictable. At the time of the inspection, the weather was cold, it was snowing, and the ground was damp. The Lorencito Canyon Mine is currently in permanent cessation.

Outstanding maintenance items are cited in the first underlined section below and additional items are in **bold text** throughout this report.

On February 29, 2024, the Division sent a Third Adequacy Review to the Operator for the Permit Renewal No. 5 (RN5) application. The RN5 decision date is set for December 30, 2024.

OUTSTANDING MAINTANENCE ITEMS

Listed below are maintenance items in previous inspection reports. The corrective action date for items 1-3 has been extended to the corrective action date for item 4. A corrective action date of December 31, 2024 had been set for item 4.

1. Erosion rills are forming on the north and west banks of Pond 006a. The erosion on the north bank appears to have been addressed at some point, because rebar is placed above the rills. However, it appears that the prior BMPs are no longer functioning adequately. **Pursuant to Rule 4.05.5(1)(c), the Operator shall address the erosion and repair the north bank.** The erosion on the west bank appears to have been caused by runoff from the road located east of Pond 006a. **Pursuant to Rule 4.05.5(1)(c), the Operator shall address the erosion and repair the west bank.**
2. The majority of Pond 008's embankment was stable and vegetated, however, the west bank contains some erosion rills and gullies. The erosion appears to have been caused by run-off from the roads above and down to the pond. **Pursuant to Rule 4.05.5(1)(c), the Operator shall repair the erosion and stabilize the west bank of Pond 008.** The Operator stated that they will likely install additional rock berms along the western-most road to help prevent run-off from running down the slopes and into the pond. The Operator also stated

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 2

that they plan to remove the sediment (deposited as a result of the bank erosion) along the west bank of Pond 008.

3. The following items pertain to ongoing maintenance issues, cited in previous reports for the area in and around the reclaimed area above Pond 006a:
 - a. The ditch along the road leading to Pond 006a is eroding and nearly full of sediment. The overloaded ditch is contributing to the build-up of sediment in the check dams of ditches D8 and D64. **Pursuant to Rule 4.03.2(4), the ditch along the west side of the road leading to Pond 006a needs to be cleaned out and repaired.**
 - b. The check dams leading to Pond 006a, within ditches D8 and D64, are nearly full of sediment. **Pursuant to Rules 4.05.3(1)(c)-(e) and 4.05.5, the Operator shall clean out the sediment from the check dams to prevent excess sediment from entering the pond.**
4. The following items pertain to ongoing erosional issues in the areas shown in Figure 1, that pursuant to Rule 4.14.6 need to be addressed. A Technical Revision will be required to expand on the current Rill and Gully plan in the PAP. **The Operator shall submit the technical revision, obtain approval, repair the erosion, and stabilize the slopes pursuant to the approved plan by December 31, 2024.**

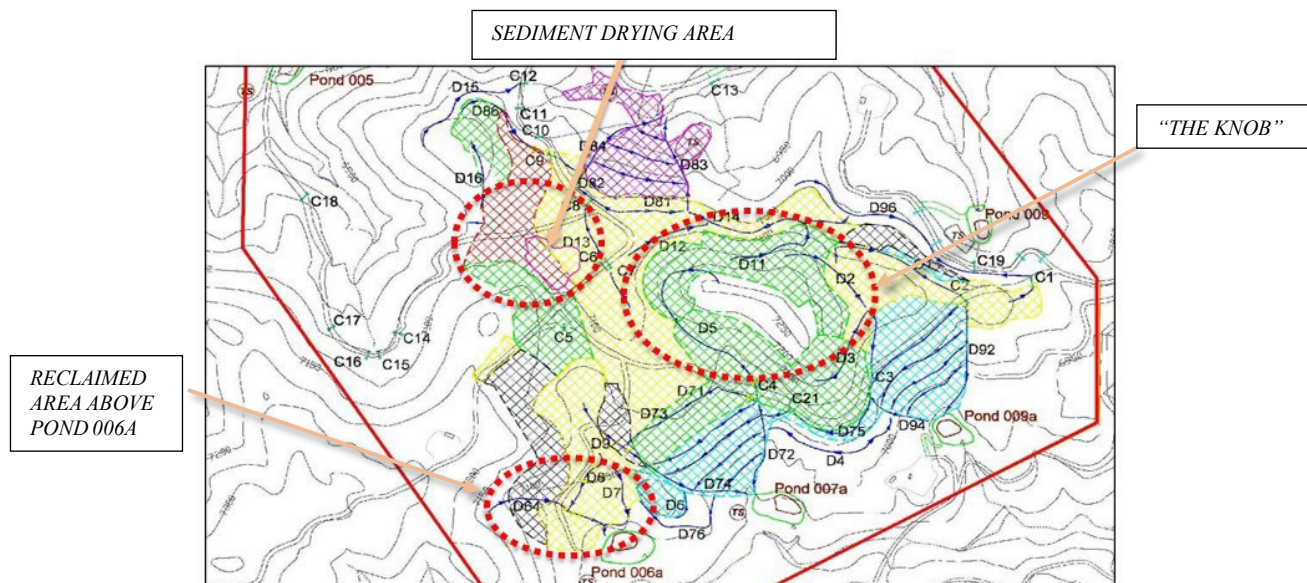


FIGURE 1. AREAS WHERE RILLS, GULLIES AND SPARSE VEGETATION HAS BEEN FOUND TO BE A PERSISTENT PROBLEM AT THE SITE ARE WITHIN THE DOTTED CIRCLE AREAS. BACKGROUND IMAGE IS THE 2020 ANNUAL REPORT MAP.

AVAILABILITY OF RECORDS – Rule 5.02.4(1):

- The Enforcement page at the end of the report describes an outstanding violation issued by the Division as a result of the May 2024 inspection. As of the date of this October 2024 inspection report's issuance, the Operator has not yet provided any abatement documentation. The deadline for the abatement of violation

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 2

number CV-2024-001 had been extended to the full 90 days allowable by Rule 5.03.2(2)(b) -- to August 28, 2024.

- On August 29, 2024, the Division issued a Cessation Order (CO-2024-001) for the Permittee's failure to abate violation no. CV-2024-001.
- On September 23, 2024 the Division held an Informal Public Hearing where the decision to uphold the Cessation Order was issued on October 10, 2024.
- On September 30, 2024, the Division issued a Show Cause Order. The Operator and any interested parties had until October 30, 2024 to show cause as to why the permit should not be suspended or revoked. As of the date of this November 2024 inspection report, the Division has not received any justification documentation from the Operator or otherwise.

HYDROLOGIC BALANCE - Rule 4.05

Drainage Control 4.05.1, 4.05.2, 4.05.3; Siltation Structures 4.05.5, 4.05.6; Discharge Structures 4.05.7, 4.05.10; Diversions 4.05.4; Effluent Limits 4.05.2; Ground Water Monitoring 4.05.13; Surface Water Monitoring 4.05.13; Drainage – Acid and Toxic Materials 4.05.8; Impoundments 4.05.6, 4.05.9; Stream Buffer Zones 4.05.18:

- Pond 009:
 - The pond held some water at the time of the inspection. (Photo 1).
 - The pond embankment appeared to be stable and vegetated. **The rills above the bank do not appear to have worsened, but the Operator shall continue to monitor this area.**
 - The primary and emergency spillways appeared clear and functional.
 - The flume contained some water but was not discharging. Some vegetation has grown over and into the flume (Photo 2). **The Operator shall clear the excess plant material in the flume.**

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 2



Photo 1: Pond 009



Photo 2: Arrow points to flume at Pond 009.

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 2

- Pond 006a:
 - Pond 006a contained water (Photo 3) and was not discharging at the time of the inspection.
 - The pond embankment still requires maintenance (see Item # 1 in the outstanding maintenance items list on the first page of this report).
 - The west bank referenced in Item #1 in the outstanding maintenance items list on the first page of this report, currently has a vegetative cover due to volunteer vegetation. This area will likely still need to be re-stabilized, but may need to be re-addressed at a later date once the vegetation has cleared for the season.
 - The primary and emergency spillways appeared to be clear and functional.



Photo 3: Looking southeast at Pond 006a.

PROCESSING WASTE/COAL MINE WASTE PILES – Rule 4.10 and 4.11

Drainage Control; Surface Stabilization; Placement:

- Fill 007 was observed. Fill 007 was well vegetated and appeared stable (Photo 4).

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 2



Photo 4: Looking southwest across Fill 007.

RECLAMATION SUCCESS - Rule 4.15, Rule 3:

- A previously disturbed area north of Fill 7 and north of the road, referred to as “The Knob”, exhibits erosion on the south and west facing slopes (Photo 5). NECC is required to provide a plan to stabilize this area through a revision following the approval of RN5 (see ongoing maintenance item number 4).

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 2



Photo 5: Looking north at the south-facing side of "The Knob".

ROADS – Rule 4.03

Construction 4.03.1(3)/4.03.2(3), Drainage 4.03.1(4)/4.03.2(4), Surfacing and Maintenance 4.03.1(5) and (6)/4.03.2(5) and (6), Reclamation 4.03.1(7)/4.03.2(7):

- See ongoing maintenance Item #2 and #3. The road along Pond 006A is washed out in the area between the reclaimed area and Pond 006A, and needs to be repaired.
- Signs of water movement across the road leading down the Pond 006A, above Ditch D9, were observed during the inspection (Photo 6). While the run-off is being contained within its designated location, the sedimentation has contributed to the filling of the check dams within D9, as mentioned in the October 2024 report.

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 2



Photo 6: Looking west across the road above D9, leading to Pond 006a.

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 2

SIGNS AND MARKERS – Rule 4.02:

- Mine signs were posted at road entrances and at the entrance to the permit boundary in compliance with Rule 4.02 (Photo 7).



Photo 7: Mine sign

DOCUMENTS RECEIVED**OTHER (SPECIFY)**

Number of Partial Inspection this Fiscal Year: 3

Number of Complete Inspections this Fiscal Year: 2

ENFORCEMENT ACTIONS/COMPLIANCE**Infraction Number:** CO2024001

Inspection Date: May 22, 2024

Date Issued: August 29, 2024

Primary Topic: Availability Of Records

Secondary Topic:

Tertiary Topic:

Description: On May 30, 2024, the Division issued the following violation:

“During the records review, conducted as part of a complete inspection of the Lorencito Canyon Mine (permit number C-1996-084), operated by New Elk Coal Company, LLC. (“NECC” or “Operator”) in May 2024, the Division found that the certificate certifying NECC has a public liability insurance policy for the operation had expired as of April 2024. At the time of the inspection, NECC’s representative was unsure if the insurance policy had been renewed, and by the time of the inspection report issuance, proof of insurance had not been provided to the Division. Also, NECC did not have or provide satisfactory evidence they had satisfied applicable State or Federal self-insurance requirements.

This is a violation for failure to maintain a certificate certifying that NECC has a public liability insurance policy in full force and effect during the term of the permit or any renewal, including the term of all reclamation operations; or, in lieu of a certificate for public liability insurance policy, satisfactory evidence NECC has satisfied applicable State or Federal self-insurance requirements pursuant to C.R.S 34-33-110(5) and Rule 2.03.9.”

NECC had extended the abatement deadline to the full 90 days allowed by Rule 5.03.2(2)(b). The final abatement deadline, set for August 28, 2024, has passed. The Division finds that NECC has failed to abate the violation, and therefore has issued this cessation order in accordance with Rule 5.03.2(3).

Abatement #: 1

Abatement Due Date: 9/28/2024

Abatement Due Extended Date:

Abatement Date:

Abatement Description: New Elk Coal Company, LLC. shall submit to the Division for inclusion in the permit application, a certificate certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation. Or, in lieu of a certificate for public liability insurance policy, satisfactory evidence that NECC has satisfied applicable State or Federal self-insurance requirements in accordance with Rule 2.03.9.

Number of Partial Inspection this Fiscal Year: 3Number of Complete Inspections this Fiscal Year: 2

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This is a violation for failure to maintain a certificate certifying that NECC has a public liability insurance policy in full force and effect during the term of the permit or any renewal, including the term of all reclamation operations; or, in lieu of a certificate for public liability insurance policy, satisfactory evidence NECC has satisfied applicable State or Federal self-insurance requirements pursuant to C.R.S 34-33-110(5) and Rule 2.03.9.

Abatement #: 1

Abatement Due Date: 7/1/2024

Abatement Due Extended Date: 8/28/2024

Abatement Date:

Abatement Description: New Elk Coal Company, LLC. shall submit to the Division for inclusion in the permit application, a certificate certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation. Or, in lieu of a certificate for public liability insurance policy, satisfactory evidence that NECC has satisfied applicable State or Federal self-insurance requirements in accordance with Rule 2.03.9.

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